

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
SUSSEX SERVICE AUTHORITY
PERMIT NOS. VPDES VA0088978 & VA0080390**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Sussex Service Authority, for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.
6. “SSA” means Sussex Service Authority, a subdivision of Sussex County, Virginia.

7. “Black Swamp Facility” means the Black Swamp wastewater treatment plant located in Sussex County, Virginia.
8. “Courthouse Facility” means the Sussex Courthouse wastewater treatment plant located in Sussex County, Virginia.
9. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Black Swamp Permit” means VPDES permit No. VA0088978, which became effective July 28, 2000, and expires July 28, 2005.
10. “Courthouse Permit” means VPDES permit No. VA0080390, which became effective April 28, 1999, and expires April 28, 2004.
11. “NOV” means notice of violation.
11. “O&M” means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. SSA owns and operates the Black Swamp wastewater treatment plant facility in Sussex County, Virginia. This facility is the subject of VPDES Permit No. VA0088978, which allows SSA to discharge treated wastewater into the Black Swamp in strict compliance with terms, limitations and requirements outlined in the permit.
2. SSA owns and operates the Courthouse wastewater treatment plant facility in Sussex County, Virginia. This facility is the subject of VPDES Permit No. VA0080390, which allows SSA to discharge treated wastewater into an unnamed tributary of Thweatt Branch in strict compliance with terms, limitations and requirements outlined in the permit.
3. On April 10, 2001, the Department issued a Warning Letter to SSA for failure to meet the CBOD and minimum chlorine effluent limitations at the Black Swamp facility.
4. On February 19, 2002, SSA reported an unauthorized discharge of sludge from the Black Swamp facility.
5. On March 4, 2002, a benthic macro-invertebrate assessment was made in Black Swamp in the vicinity of the discharge. The results indicate detrimental environmental impact to the benthic communities in the stream.
6. On May 21, 2002, the Department issued an NOV to SSA’s Black Swamp and Courthouse facilities. The Black Swamp facility was cited for failure to meet total

suspended solids limits in December 2001, failure to submit the March 2002 discharge monitoring report on time, and for the unauthorized discharge reported on February 19, 2002. The NOV also cited effluent violations of TSS, TKN, CBOD, and chlorine at the Courthouse facility.

7. The Department met with SSA on June 3, 2002, and October 28, 2002, to discuss the violations at the Black Swamp and Courthouse facilities.
8. A Department review of SSA's file for the October 2002 through January 2003 monitoring period indicates that the Black Swamp facility failed to submit a copper and zinc quarterly progress report due January 28, 2003; submitted the copper and zinc report due October 28, 2002 on January 9, 2003; failed to meet the TKN permit limit for average and maximum loading in November 2002; and, failed to properly report total chlorine on the November and December 2002 discharge monitoring reports.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of its authority in Code §§ 62.1-44.15 (8a) and (8d), orders SSA and SSA agrees:

1. To perform the action described in Appendix A of this Order.
2. To voluntarily pay a civil charge of \$7,600 in settlement of the violations cited in this Order. Payments shall be made in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
July 1, 2003	\$3,800.00
July 1, 2004	\$3,800.00

The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for SSA. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of SSA, for good cause shown by SSA, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, SSA admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. SSA consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. SSA declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by SSA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. SSA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. SSA shall show

that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. SSA shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and SSA. Notwithstanding the foregoing, SSA agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to SSA. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve SSA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, SSA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

SSA voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of
_____, 2003, by _____, who is
(name)

_____ of SSA, on behalf of the Authority.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

SSA shall:

1. On or before May 1, 2003, submit to the Department a letter stamped by a professional engineer certifying the repair to the off-level clarifier weirs at the Blackswamp facility.
2. On or before April 1, 2003, submit to the Department formal written standard operating procedures to assure compliance with the reporting requirements of the VPDES permit.
3. On or before May 1, 2003, submit to the Department a corrective action plan (CAP) for a solution to the operational issues at the Courthouse facility. The CAP shall be suitable for approval and contain an implementation schedule which, once approved by the Department, shall become a part of this Order.

Pursuant to this Order communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

SSA shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.